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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/538,562 | 03/29/2000 | Donald F. Gordon | 19880-001620US | 6071 |
| 26291 | 7590 | 08/12/2005 | EXAMINER | |
| MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702 | | | TRAN, HAI V | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2611 | |

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/538,562

Applicant(s)

GORDON ET AL.

Examiner

Hai Tran

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/21/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 16-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/25/2005 has been entered.

Election/Restrictions

Claims 16-26 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a non-originally claimed invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 03/21/2005.

Response to Arguments

Claim 1, Applicant argues, "Nowhere in the Godon reference discloses "transport stream generator receives demand-cast stream usage information from the session manager to control which demand-caststreams ... are multiplexed into the transport stream..."

In response, The Examiner cites Fig. 2 in which Gordon shows a transport stream generator 202 for receiving demand-cast stream usage information (Coaxial Upstream inputs) from the session manager 216 or SCM 220, i.e., movie on-demand

function (page 14, lines 14-16) and using the information received from the SCM 220 to control which demand-cast stream, i.e. movie on-demand. As to limitation "associated with guide pages of the array of guide pages", Gordon provisional Application 60/034,490 incorporated herein by reference clearly discloses an array of guide page on its specification at page 19, lines 30-page 21 and Fig. 3-4, 7-19) are multiplexed into a TS at page 25 (see Claims 1, 4-5 of page 25 of Gordon provisional Application 60/034,490).

Applicant does not discuss claims 2-15. For at least the reason set forth above, the rejection is maintained.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-15 are rejected under 35 U.S.C. 102(b) as being unpatentable by Gordon et al. (WO 98/31115).

Claim1, a system for providing access to array of guide pages from an interactive program guide (selection menus; see US provisional patent Application 60/034,490 filed 01/13/1997 and incorporated herein by reference; page 19, line 15 in which Application 60/034,490 clearly discloses "an array of guide pages" in its

specification page 19, lines 30-page 21 and Fig. 3-4, 7-19) within constraints imposed by limited bandwidth available in a distribution network (summary of the invention; page 2-5), the system comprising:

A distribution control center coupled to the distribution network (Fig. 1);

A session manager 216 in the distribution control center for monitoring and controlling usage of demand cast stream bandwidth with the distribution network (page 14, lines 7-page 14, lines 31); and

A transport stream generator 202 for receiving demand-cast stream usage information from the session manager and using the information to control which demand-cast streams associated with guide pages of the array of guide pages (a program is selected from a program guide and is associated with the program guide) are multiplexed into a transport stream for transmission to a plurality of terminals via the distribution network (page 12, lines 24-page 16, lines 28).

Claim 2, wherein the pluralities of terminals 124_{1-n} are coupled to a node 110 within the distribution network, and the transport stream is transmitted from the transport stream generator to the node (Fig. 1; page 12, lines 15-30+).

Claim 3, wherein the session manager 216 receives demand-cast stream acquisition, release, and request messages from the plurality of terminals (page 13, lines 21-page 14, lines 16).

Claim 4, wherein the acquisition, release, and request messages are transmitted via out-of-band communications (upstream; page 13, lines 29-35).

Claim 5, wherein the transport stream includes a list of available demand-cast streams (...what programming is available to a particular subscriber...), and the list is used by a terminal in determining whether a stream with a particular guide page may be acquired immediately (...PIN that provides "regular" viewing authorization...) or needs to be requested (...authorizes to access so-called "late night" programming...) see page 19, lines 3-16.

Claim 6, wherein the acquisition message is sent from the terminal to the session manager if the stream is acquired (...the set-top return an acknowledgment ... page 17, lines 18-24), and a request message is sent from the terminal to the session manager if the stream needs to be requested (...requesting a program...page 21, lines 5-10 and page 23, lines 22-26).

Claim 7, wherein a release message is sent from the terminal to the session manager once the terminal is no longer acquiring the stream (page 21,lines 16-19).

Claim 8, wherein the session manager tracks demand-cast streams that are acquired by at least one terminal by maintaining a dynamic list of terminals that are presently acquiring each demand-cast stream (page 18, lines 12-27).

Claim 9, wherein the session manager 216 informs the transport stream generator 202 when a terminal request a demand-cast stream, which is not present in the transport stream (page 14, lines 17-page 15, lines 14).

Claim 10, wherein the session manager 216 informs the transport stream generator 202 when there is no longer any terminals acquiring the demand-cast stream (page 16, lines 29-35; page 21, lines 13-18).

Claim 11, wherein the distribution control center comprises a cable headend (see Fig. 1).

Claim 12, wherein the transport stream generator 202 is co-located with the session manager 216 at the distribution control center (see Fig. 2).

Claim 13, wherein the transport stream generator 202 is located separately from the session manager 216 (see Fig. 2).

Claim 14, wherein the session manager 216, Fig. 4 (page 20, lines 33-page 21, lines 19) comprises:

A monitoring module 218 for receiving acquisition, release, and request messages from a plurality of terminals;

A tracking module 220 for maintaining a dynamically list of terminals that are presently acquiring each demand-cast stream (page 14, lines 28-34; page 18, lines 1-6); and

A controlling module 222 for informing the transport stream generator 202 when a terminal requests demand-cast stream which is not present in the transport stream and for informing the transport stream generator when there is no longer any terminals acquiring the demand-cast stream (page 21, lines 16-19).

Claim 15, wherein the transport generator comprises:

An interface to a session manager 216 for receiving demand-cast stream usage information from the session manager 216 (page 14, lines 17-22);

A multiplexer 214 for multiplexing demand-cast streams into a transport stream for transmission to a plurality of terminals via a distribution network (page 4, lines 31-34+ and page 13, lines 18-20); and

A controller 212 for controlling which demand-cast streams are multiplexed into the transport stream using the demand-cast stream usage information (page 13, lines 10-20).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is 703-308-7372. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher C. Grant can be reached on 703-305-4755. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht
08/04/2005


HAITRAN
PRIMARY EXAMINER